



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019456

[REDACTED]

Dear [REDACTED],

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 11, 2017 eligibility determination and March 22, 2017 enrollment confirmation notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019456



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your children's eligibility for, and enrollment in, their Child Health Plus (CHP) plan was effective April 1, 2017?

## Procedural History

On January 21, 2017, you updated your NYSOH application for financial assistance with health insurance.

On January 22, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to submit documentation of household income by February 5, 2017 on behalf of your children. Attached to the notice was a list of acceptable income documentation which stated in part, "You must report all of the income for your household. This includes income for members who are not applying for coverage. If proof of income is requested for a child, please send in proof of income for parent/caretaker(s)."

On February 1, 2017, documentation was uploaded to your NYSOH account.

On February 13, 2017, NYSOH issued a notice stating that the documentation you supplied did not confirm the information in your application. The notice directed you to supply proof of income by March 7, 2017 on behalf of your

children. The notice again included the attachment regarding acceptable income documentation.

On March 2, 2017, you updated your NYSOH account.

On March 3, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to submit documentation of household income by March 7, 2017. The notice again included the attachment regarding acceptable income documentation.

Also on March 3, 2017, you uploaded documentation to your NYSOH account.

On March 10, 2017, NYSOH verified the income documentation that you submitted, and reran your application for financial assistance.

On March 11, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP with a \$15.00 monthly premium for the older child, and a \$9.00 monthly premium for the younger child.

On March 22, 2017, NYSOH issued a notice of enrollment, based on your plan selection on March 21, 2017, stating that your children were enrolled in a CHP plan, and that their enrollment in the plan would start April 1, 2017.

On June 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP coverage, insofar as it did not begin March 1, 2017.

On August 29, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) You testified that you are appealing only on behalf of your son [REDACTED], and your spouse's son [REDACTED].
- 2) You submitted an application to NYSOH for financial assistance on January 21, 2017.
- 3) The application submitted on January 21, 2017 indicated that you had an expected annual gross income of \$1,404.00, and that your spouse had an expected gross annual income of \$24,000.00.

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- 4) On January 22, 2017, NYSOH issued a notice requesting that you submit income documentation for your household.
- 5) You testified that you updated your application in January 2017 over the phone with an application counselor from Fidelis, and that you were told you needed to provide income documentation.
- 6) You testified, and your NYSOH account confirms, that you submitted a letter to NYSOH indicating that your spouse was starting a new job as of February 13, 2017 (Document [REDACTED]).
- 7) No documentation of your income was submitted.
- 8) You testified that you do not recall receiving the January 22, 2017 notice informing you that you needed to supply income documentation to NYSOH by February 5, 2017.
- 9) You testified, and your NYSOH account confirms, that you receive notices from NYSOH by regular mail.
- 10) No notices sent to you at the address in your NYSOH account have been returned to NYSOH as undeliverable.
- 11) You testified that no one from NYSOH ever told you that you needed to submit documentation of your own income.
- 12) You testified that you only work three to four hours per week, so you did not think your income was very relevant to your children's eligibility.
- 13) You testified that you believe you received the February 13, 2017 notice stating that you needed to submit further income, but that you presumed you were still being asked for your spouse's income.
- 14) You testified that you spoke to your application counselor and the application counselor speculated that maybe the letter was not enough to prove your spouse's income.
- 15) You testified that you spoke to NYSOH several times and no one ever told you that the issue holding up your application was the fact that you had not submitted income documentation until March 3, 2017, when you uploaded your paystubs (Document [REDACTED]).
- 16) During the hearing, you reviewed a record of phone calls made from your phone between January 15, 2017 and February 15, 2017. You found at

least three phone calls that you made to your application counselor, but could not locate any calls to NYSOH on that statement.

17) You testified that you know that you called NYSOH, and that the first call must have been sometime in February 2017.

18) Your NYSOH account confirms that your children were found eligible for CHP in a notice dated March 11, 2017, and that you selected a plan for enrollment on their behalf on March 21, 2017, which began on April 1, 2017.

19) You testified that you need your children's CHP coverage to begin on March 1, 2017 because they both have outstanding medical bills for the month of March 2017, when they had no coverage.

20) You testified that, had someone told you that you needed to submit your income documentation, you would have done so immediately.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Child Health Plus

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

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The “period of eligibility” for CHP is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for CHP begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### Verification Process

For all individuals whose income is needed to calculate the household’s eligibility, NYSOH must request data that will allow NYSOH to verify the household’s income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children’s eligibility for, and enrollment in, their CHP coverage began on April 1, 2017.

You testified, and the record confirms, that you updated your application on January 21, 2017 through an application counselor. Based on the income amounts that were entered into the application, your children were placed into a “pending Medicaid” status. However, NYSOH could not verify the income

provided using information available from state and federal data sources, and therefore requested further documentation in a notice dated January 22, 2017.

When an application requests financial assistance, NYSOH must verify an applicant's household income. If NYSOH cannot verify the household income attested to by the applicant through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.

You testified that you were advised by your application counselor to submit income documentation, and so you submitted a letter regarding your spouse's new job. The record confirms that this letter was uploaded to your NYSOH account on February 1, 2017. You testified that you did not provide any documentation of your income because you only work three to four hours a week, and because no one ever told you that you needed to provide your income documentation, until a phone call that you had with NYSOH on March 3, 2017.

However, the January 22, 2017 notice requesting income documentation contained an attachment indicating that all household income needed to be documented. The attachment did not indicate that the amount of income had any bearing on whether documentation should be submitted. Moreover, the notice specifically stated that, when income is requested for a child, the child's parents or caretakers should provide proof of their income.

You testified that you did not recall receiving this notice. However, you testified, and the record confirms, that you receive notices from NYSOH by regular mail. As there is no indication that this, or any other notice sent by NYSOH, was returned as undeliverable mail, it is concluded that you received this notice, and therefore knew, or should have known, what documentation was required for NYSOH to make an eligibility determination.

On March 3, 2017, you uploaded your paystubs, and, therefore, your application was complete as of that day. On March 10, 2017, your household income was verified by NYSOH and, on March 11, 2017, NYSOH issued a notice stating that your children were eligible for CHP as of April 1, 2017. They were subsequently enrolled into a CHP plan, with a start date of April 1, 2017.

You testified that you received the February 13, 2017 notice requesting income documentation, and that you called NYSOH to try to find out what you needed to submit. During the hearing, you attempted to locate the date of your first phone call with NYSOH, but could not find any record of a call in your phone statement for the period from January 15, 2017 through February 15, 2017. Therefore, though your testimony that you called NYSOH is credible, there is no indication that you made these calls prior to February 15, 2017 – the last date on which your children could have been found eligible for CHP with a March 1, 2017 start



date. Moreover, you were sent notices indicating specifically what income documentation needed to be submitted to NYSOH, and therefore did not need to rely on verbal information from NYSOH.

As such, NYSOH's March 11, 2017 eligibility determination and March 22, 2017 enrollment confirmation notices, stating that your children's eligibility for, and enrollment in, CHP coverage began on April 1, 2017, are AFFIRMED.

## **Decision**

The March 11, 2017 eligibility determination notice is AFFIRMED.

The March 22, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** September 11, 2017

## **How this Decision Affects Your Eligibility**

This decision does not change your children's eligibility.

The effective date of your children's CHP plan enrollment was April 1, 2017.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 11, 2017 eligibility determination notice is AFFIRMED.

The March 22, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

The effective date of your children's CHP plan enrollment was April 1, 2017.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

**A Copy of this Decision Has Been Provided To:**



## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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